

Consolidated Omnibus Budget Reconciliation Act of 1986

What is COBRA Continuation Coverage?

The Consolidated Omnibus Budget Reconciliation Act of 1986, or COBRA, provides that virtually all employers who sponsor group health plans must permit covered individuals, who lose coverage under that plan as a result of certain enumerated events, to elect to continue their coverage under the plan for a prescribed period of time on a self-pay basis. Individuals who are entitled to COBRA continuation coverage are known as Qualified Beneficiaries.

Who is Eligible for COBRA Continuation Coverage?

In general, qualified beneficiaries include employees, their spouses, and dependent children who are covered under the plan the day before the qualifying event occurs. An amendment to the COBRA regulations made by HIPAA, permits children born to, or placed for adoption with, an employee during the period of COBRA continuation coverage to be considered a qualified beneficiary.

How are Qualified Beneficiaries Notified of their Rights?

COBRA regulations provide that a group health plan is required to provide written notice of COBRA rights to each covered employee and his or her spouse, if any, when coverage under the plan first commences. The regulations require that group health plans furnish written notice of COBRA rights no later than 90 days after their coverage begins. This written notice may be referred to as either the Initial Notice or the General Notice.

The DEI provides this notice in this Administration Manual and on the Personnel Cabinet's web site. The General Notice is available in word format on the web page to aid you in complying with the COBRA regulations. This notice should be sent to all covered employees and their spouses. The sending of other notices is dependent upon the occurrence of certain events.

What are COBRA Triggering Events?

The following triggering events that an employee may experience:

- Termination of employment (for reasons other than the employee's gross misconduct) ; and
- Reduction in the employee's hours of employment.

The following are triggering events that an employee's spouse or dependent children may experience:

- Termination of employment (for reasons other than the employee's gross misconduct) ;
- Reduction in the employee's hours of employment;
- Death of the employee;
- Divorce or legal separation from the employee;

- The employee's entitlement to Medicare;
- The employer's commencement of a bankruptcy proceeding under Title 11 of the United States Code; and
- The child ceasing to be a covered dependent child under the terms of the Plan.

Anytime you are notified of a triggering event, you need to determine whether that event caused the member to lose group health coverage. If it does, then it is a qualifying event, and you will need to take further action to notify the qualified beneficiaries of their COBRA rights.

What is a COBRA Qualifying Event?

A COBRA qualifying event is one of the triggering events listed above that result in the loss of coverage for a qualified beneficiary. The COBRA regulations provide that a triggering event is a qualifying event only "if, under the terms of the group health plan, the event causes the covered employee, or the spouse or a dependent child of the covered employee, to lose coverage under the plan."

Therefore, when determining if a triggering event caused a loss of coverage, carefully review the facts and relevant documents. When was the loss of coverage? Examine the qualifying event chart to be certain that it provides a loss of coverage upon the occurrence of a particular triggering event.

When a Qualifying Event Occurs: Who Must Notify Whom?

The employer cannot detect the occurrence of some qualifying events, because information concerning such events is uniquely within the control of the qualified beneficiary. If the event results in a loss of coverage under the group plan then the COBRA regulations require that the covered employee or other qualified beneficiary notify the insurance coordinator of the following events:

- Divorce or legal separation;
- A dependent child ceasing to qualify as a dependent under the terms of the plan;
- The occurrence of a second qualifying event after the qualified beneficiary becomes entitled to COBRA continuation coverage with the maximum duration of 18 or 29 months; and
- A determination by the Social Security Administration (SSA) that a covered employee or other qualified beneficiary is disabled, or a subsequent determination by the SSA that the individual is no longer disabled.

The employee or his/her qualified beneficiary is required to notify you no later than 60 days after the qualifying event. Failure to notify you in a timely manner will result in unavailability of COBRA continuation coverage for that individual.

The employer must notify the employee of some qualifying events. If the event results in a loss of coverage under the group health plan, then the employer must notify the covered employee and his/her spouse and dependent children for the following events:

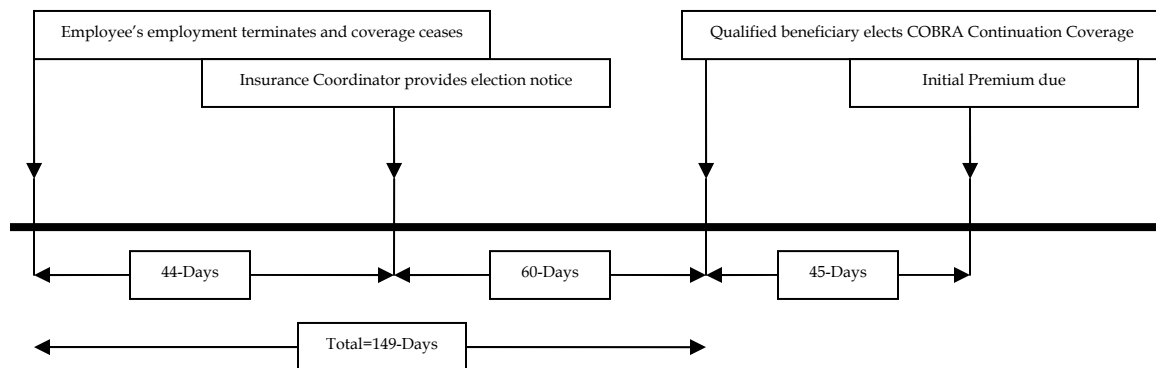
- Death of the covered employee;
- Termination of employment (other than for gross mis-conduct);
- Reduction in the employee's hours of employment;
- The employee's entitlement to Medicare (under Parts A or B, or both); and
- The employer's bankruptcy.

According to the COBRA regulations, you are required to send the election notice to the employee and his/her qualified beneficiaries after notification of a qualifying event. You are required to send this notice no later than 44 days after the qualifying event or receiving notice from the employee or his/her qualified beneficiary that a qualifying event has occurred. You must provide an Election Notice to all qualified beneficiaries covered under the plan the day before the event occurred.

How Long is the Election Period?

A group health plan can require that qualified beneficiaries timely elect COBRA continuation coverage in order to receive such coverage. An election of COBRA continuation coverage will be considered timely if it is made during the election period.

The COBRA regulations provide that the election period must begin on or before the date that the qualified beneficiary would lose coverage as a result of a qualifying event. Further, the election period must remain open for 60 days from the later of the date coverage would be lost because of a qualifying event, or the date notice is provided to the qualified beneficiary of his or her right to elect COBRA continuation coverage.



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After Receiving the Election Notice: What is Next?

After receiving the election notice, you should take the following steps:

- Review the election form and check to make sure it is completed correctly and all information is completed;
- Copy all documentation received from the qualified beneficiary;

- Forward copies of the election notice to the appropriate insurance carrier (the election notice should not be held until the initial premium payment is received); and
- If payment for COBRA continuation coverage is received later, forward to appropriate insurance carrier.

What Steps Should I Take if COBRA Continuation Coverage is Unavailable?

The COBRA regulations provide that, if a plan administrator receives notice from a covered employee or other qualified beneficiary of a qualifying event, second qualifying event or a request for disability extension, but the administrator determines that the individual is not entitled to COBRA continuation coverage, then the administrator must provide such an individual with a written explanation as to why he or she is not entitled to elect COBRA continuation coverage.

This notice is the Unavailability Notice and is required to be sent to the covered employee or other qualified beneficiaries no later than 14 days after receipt of the election notice. These notices along with all other notices are in this administration manual and available on the DEI web site.

How Much Will COBRA Continuation Coverage Cost?

COBRA regulations do not require employers to pay for continuation coverage. Instead, employers are expressly permitted to charge employees 100 percent of the cost of the group health coverage, plus an additional 2 percent, for a total premium of 102 percent. Please use the premium chart on our web page to calculate COBRA continuation coverage premiums. The additional two percent covers the added cost for administering COBRA continuation coverage.

Is There a Grace Period for Premiums?

The COBRA regulations provides for two grace periods within which COBRA continuation coverage premiums must be paid. In general, the initial premium payment must be made within 45 days of the COBRA continuation coverage election, and all other premium payments must be made within 30 days after the first day of the coverage period to which they relate.

How Should I Send the Notices?

The COBRA regulations state that, when furnishing required material, the plan administrator “shall use measures reasonably calculated to ensure actual receipt of the material” by intended recipients, and the regulation specifically mentions first class mail. The COBRA regulations only require you to show proof that the notice was sent in good faith and in a timely manner to the last known address of the qualified beneficiary.

The DEI strongly recommends that the notices be sent by certified mail without return receipt. This method will enable you to show proof that the notice was mailed to the last known address and the date which it was sent on. If you are unable to send by this method,

you should consider hand delivery. You should take precautions in delivery of the notices by this method. If hand delivering, make a check list and obtain the covered employees signature and date that he or she receive the notice from you. Proof of the date a notice was sent is crucial when defending a claim for failure to provide a timely COBRA notice.

What is the Length of the COBRA Continuation Coverage Period?

Listed below is the maximum period COBRA continuation coverage is available.

<u>Qualifying Events that entitle you to COBRA continuation coverage</u>	<u>Length of COBRA continuation coverage</u>
Termination of employee's employment (except for gross misconduct) (Former employee and covered dependents)	18 Months
Reduction of the employee's hours (Former employee and covered dependents)	18 Months
Death of a covered employee (Spouse and covered dependents)	36 Months
Divorce or legal separation from the covered employee (Spouse and covered dependents)	36 Months
Employee becomes entitled to Medicare (Part A, Part B or both) (Spouse and covered dependents)	36 Months
Dependent child covered under plan ceases to be an eligible dependent under the plan	36 Months
Person considered to have total disability, according to the Social Security Administration	29 Months